

REMARKS

Claims 1-21 are pending in the present application. In the Office Action mailed July 5, 2006, the Examiner rejected claims 1-21 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of Albrecht et al. (USP 6,977,358). The Examiner next rejected claims 1, 2, 3, 8, 17, 18, and 21 under 35 U.S.C. §102(b) as being anticipated by DE 83 08 99.3. Claims 4-7, 9-16, 19 and 20 were indicated as containing allowable subject matter. Such indication is appreciated.

The Examiner has withdrawn claims 22-23 from further consideration and are hereby accordingly canceled.

Applicant has amended claim 8 to correct for an antecedent basis inconsistency.

Responsive to the Examiner's rejection on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of Albrecht et al. (USP 6,977,358), Applicant has elected to file a terminal disclaimer under 37 CFR 1.321 herewith. Accordingly, the rejection on these grounds is requested.

The Examiner rejected claim 1 under §102(b) as being anticipated by DE 83 08 99.3, stating that "DE '99.3 discloses an enclosure, a power source (8 is a control panel having power source) within enclosure, a shielding gas regulator (5) connected with first gas source (7) within an enclosure." *Office Action, July 5, 2006, p. 3*. Applicant has amended claim 1 to incorporate allowable claim 7. Claim 7 has accordingly been canceled. Claims 2-6 and 8 are also in condition for allowance at least pursuant to the chain of dependency to claim 1.

Applicant has added new claims 24-26, incorporating the allowable subject matter of claims 4, 5, and 6. Specifically, claim 24 incorporates the subject matter of original claims 1, 2, and 4; claim 25 is similar to that of claim 5, but depends from claim 24; and claim 26 incorporates the allowable subject matter of claims 1 and 6.

The Examiner also rejected claim 17 as being anticipated by DE'99.3 stating that the reference discloses "the method comprising the steps of providing a power source, providing a regulator, and enclosing a power source and the regulator in an enclosure." *Office Action, July 5, 2006, p. 3*. Applicant does not disagree with this assertion; however, claim 17 additionally calls for the method of constructing a welding apparatus to include the step of enclosing a power source and a regulator in an enclosure, such that the regulator is adjustable when the enclosure is closed. The Examiner seems to have overlooked this element of claim 17. DE '99.3 fails to teach or disclose such a step, and as such, cannot be said to anticipate that which is called for in claim 17. The cited reference does not disclose that the pressure reducing valve 5 can be accessible when cover 7 is closed. Furthermore, inspection of the figure provided in DE '99.3 reveals that the housing 2 disclosed therein has no such ability. That is, an operator would not have access to the mechanisms on the interior of the housing 2 unless the cover 7 attached thereto were open. Therefore, the pressure reducing valve 5 of DE '99.3 is not capable of adjustment when the housing 2 is closed. As such, claim 17, and the claims dependent therefrom, are believed patentably distinct over the cited reference.

Regarding the Examiner's identification of claims that would be allowable if rewritten in independent form, the Examiner identified claim 9 as a dependent claim, stating that claim 9 is "objected to as dependent upon a rejected base claim." *Office Action, supra at 4*. Applicant believes this is a typographical error as claim 9 is written as an independent claim. Because claim 9 is an independent claim and because the Examiner has recognized that the claim contains patentable subject matter over DE'99.3, Applicant believes that claim 9 is in condition for allowance. Furthermore, as claims 10-16 depend from claim 9, they also are in condition for allowance at least pursuant to the chain of dependency.

In light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-21 and 24-26.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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¹The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2623. Should no proper payment be enclosed herewith, as by credit card authorization being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2623. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extensions under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2623. Please consider this a general authorization to charge any fee that is due in this case, if not otherwise timely paid, to Deposit Account No. 50-2623.